

REMARKS

Currently, claims 1, 5-15, 25, 36, 37, 39-41, 45-55, 65, and 76-82 are presented for examination. Of these, claims 1, 5-9, 13, 41, 45-49, and 53 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,154,753 issued to McFarland. Further, claims 10-12, 14, 15, 25, 36, 37, 39, 40, 50-52, 54, 55, 65, and 76-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFarland (U.S. Patent No. 6,154,753), as applied to claims 5, 9, 13, 45, 49, and 53 above. Claims 1, 36, and 41 have been amended in a non-narrowing manner to address an objection raised by the Examiner. These amendments add no new matter and raise no new issues. The Applicants submit that claims 1, 5-15, 25, 36, 37, 39-41, 45-55, 65, and 76-82 are in condition for allowance for at least the reasons presented herein and respectfully request reconsideration of the outstanding rejections.

Rejections under 35 U.S.C. §102

Claims 1, 5-9, 13, 41, 45-49, and 53 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,154,753 issued to McFarland. To anticipate a claim under 35 U.S.C. §102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985). The Applicants traverse the rejections for at least the reasons presented herein. McFarland does not teach or suggest each and every element of Applicants' amended claims 1 and 41.

Applicants' amended claims recite, respectively, a method and storage medium "for facilitating supplier auditing functions in a communications network environment, comprising:

“receiving a request from a user system operated by, or on behalf of, an enterprise system to initiate an activity, said activity including scheduling an audit for performing an initial or ongoing qualification of a supplier enterprise;

“said enterprise system retrieving data from at least one database, said data corresponding to said activity selected; and

“transmitting said data to said user system;

“wherein said enterprise system includes a quality network application for executing activity options.”

McFarland does not teach these features. The method and system of McFarland are exclusively concerned with facilitating “the personnel of *an organization* to comply with the requirements of ISO 9000” (col. 3, lines 42-43, emphasis added), and to “overcom[ing] one or more of the shortcoming and deficiencies of the related art” (col. 3, lines 44-45). The shortcomings McFarland was concerned with are not specifically those of one enterprise system seeking to audit the certification of separate supplier enterprises (these inter-enterprise problems including redundant and unnecessary audits of the same supplier by different procurement divisions, and inconsistent audit results for suppliers due to non-standardized formats, see Applicants’ Specification p. 3, line 10-p.4 line 2), but rather problems related to a supplier or other enterprise trying to manage and/or audit its own certification. These types of problems include document availability and management (col. 3, lines 22-34), internal personnel qualifications (col. 3 lines 34-37), and corrective action administration (col. 3, lines 37-40).

Thus the broadest “communications network environment” envisioned by the McFarland patent is, at best, a network involving an organization which is “global in nature, and for which a global accreditation to IS 9000 or some other standard is a requirement” (col. 25, lines 8-10). This internal accreditation may, as the Examiner suggests, use “both internal and external auditors” (Office Action mailed March 2, 2005), but does not, even implicitly, contain the additional element of qualification of a supplier enterprise by an enterprise requesting the qualification/audit to be conducted as recited in Applicants’ claims 1 and 41.

The Examiner states that the “Applicants claim language does not preclude the performance of self-conducted audits” (Office Action, page 3). The Applicants

respectfully disagree. Claims 1 and 41 recite two distinct enterprise systems, namely, the enterprise system requesting the audit and the supplier enterprise for which the audit is to be conducted. The recitation of two distinctive enterprises in the context of the claim language clearly precludes any interpretation that the audits may be self-conducted. Moreover, if such claim language were interpreted to include self-conducted audits, the recitation of two distinct enterprises as provided in claims 1 and 41 would be redundant and superfluous. Thus, the Applicants respectfully submit that the Examiner has erred in his interpretation of Applicants' claims 1 and 41.

In addition, the Examiner states that the term self-conducted audit may imply, for example, an audit initiated in-house but requiring that authorized internal and/or external auditors perform the audit or that a department different than the department being audited performs the audit (Office Action, page 3). Again, the Applicants respectfully disagree. Assuming, for the sake of argument, that McFarland teaches self-conducted audits as defined by the Examiner, claims 1 and 41 would still not be anticipated by McFarland because the claim language recited in claims 1 and 41 provide for *one enterprise seeking qualification of another enterprise* and cannot be interpreted, in the broadest sense, to include self-conducted audits (emphasis added). The claims do not teach inter-departmental auditing activities for a single enterprise nor an enterprise seeking an audit to be performed by an external auditing entity. For at least these reasons, the Applicants submit that claims 1 and 41 are not anticipated by McFarland. Claims 5-9 and 13 depend from what is an allowable claim 1. Claims 45-49 and 53 depend from what is an allowable claim 41. For at least these reasons, the Applicants submit that claims 1, 5-9, 13, 41, 45-49, and 53 are in condition for allowance. Reconsideration of the outstanding rejections is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 10-12, 14, 15, 25, 36, 37, 39, 40, 50-52, 54, 55, 65, and 76-82 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McFarland (U.S. Patent No. 6,154,753), as applied to claims 5, 9, 13, 45, 49, and 53 above. Claims 5, 9, and 13 depend from what is an allowable claim 1. Claims 45, 49 and 53 depend from what is an

allowable claim 41. As indicated above with respects to claims 1 and 41, the Applicants' claims 5, 9, 13, 45, 49, and 53 are not anticipated by McFarland. Accordingly, the Applicants submit that claims 10-12, 14, and 15, which depend from claim 1, and claims 50-52, 54, and 55, which depend from claim 41, are also in condition for allowance. The Applicants respectfully request reconsideration of the outstanding rejections of claims 10-12, 14, 15, 50-52, 54, and 55.

Applicants' claims 25, 36, and 65 recite a method, system, and storage medium, respectively, for facilitating supplier auditing functions. Claim 36 has been amended in a manner similar to the amendments described above with respect to claims 1 and 41. For at least the reasons presented above with respect to claims 1 and 41, the Applicants submit that amended claim 36 is in condition for allowance.

Additionally, assuming for the sake of argument that it is "old and well-known in the art of inter-enterprise communications to utilize a web site (such as an internet-based web site) maintained by an enterprise system that authenticates a user's ID and password via a firewall and a communications network environment that includes an extranet in order to promote secure communications among users from different organizations" (Office Action mailed March 2, 2005), it is not obvious to expand the communications network environment in this fashion to modify McFarland, since McFarland itself teaches away from expanding beyond the supplier (and possible external auditor), and giving certification process control and information to a potential customer. A reference that teaches away from the claimed invention is a significant factor to be considered in determining obviousness. MPEP 2145.X.D.1; see *In re Gurley*, 31 USPQ2d 1130 (Fed. Cir. 1994). McFarland teaches a method and system "configured to substantially obviate one or more of the problems in complying with the requirements of ISO 9000 and corresponding standard requirements" (col. 3, lines 51-53). McFarland explains the benefit of this in the larger context of suppliers and external customers as follows:

"By complying with one or more of the applicable family of ISO standards, Suppliers are able to obtain the confidence of their customers, *without the necessity of following many different quality control processes required by different customers.*" (col. 1, lines 61-65, emphasis added)

Applicants claim language repeatedly focuses on "facilitating supplier auditing functions" by "an enterprise system." This is precisely the type of relationship which the italicized language above demonstrates that McFarland hoped to make unnecessary. Since McFarland teaches a method and system designed to obtain customer confidence without the need for submitting to "many different quality control processes required by different customers," it must teach away from any system which facilitates exactly that type of interaction. For this reason as well, amended claims 25, 36, and 65 are in condition for allowance.

Claims 37, 39, 40, and 76-82 depend from what is an allowable claim 36 and, for at least this reason, are in a condition for allowance. The Applicants respectfully request reconsideration of the rejections of claims 10-12, 14, 15, 25, 36, 37, 39, 40, 50-52, 54, 55, and 65.

CONCLUSION

No new matter has been entered and no additional fees are believed to be required. However, if any fees are due with respect to this Amendment, please charge them to Deposit Account No. 50-0150.

Respectfully submitted,

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